

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**WILLIAM JUNIOR MCNEELY,
#1176423,**

Petitioner,

v.

Civil Action No.: 2:23cv489

**CHADWICK S. DOTSON, Director,
Virginia Department of Corrections,**

Respondent.

FINAL ORDER

Before the Court is an Amended Petition for a Writ of Habeas Corpus, ECF No. 3, filed pursuant to 28 U.S.C. § 2254, and Respondent's Motion to Dismiss, ECF No. 18. On September 14, 2021, the Circuit Court for the City of Richmond accepted Petitioner's pleas of guilty to Robbery and Use of a Firearm during the Commission of a Felony. In his Petition, the *pro se* Petitioner challenges the constitutionality of this conviction and sentence.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on February 7, 2025, ECF No. 32, the Magistrate Judge recommended that the Amended Petition be granted as to Claim 13, that Petitioner be resentenced according to the correct statutory maximum, and that Petitioner's remaining claims be dismissed

pursuant to Respondent's Motion to Dismiss.

The parties were advised of their right to file written objections to the Report and Recommendation. Neither the Petitioner nor the Respondent filed objections with the Court.¹

Having reviewed the record and having heard no objection, the Court agrees with the Report and Recommendation on the grounds stated by the Magistrate Judge and **ADOPTS** and **APPROVES** the Report and Recommendation, ECF No. 32, in its entirety as the Court's own opinion. Accordingly, the Amended Petition, ECF No. 3, is **GRANTED** as to Claim 13, and the Respondent **SHALL** resentence Petitioner according to the correct statutory maximum. The Amended Petition, ECF No. 3, is **DENIED** as to all remaining claims, and **DISMISSED WITH PREJUDICE**. Respondent's Motion to Dismiss, ECF No. 18, is **GRANTED in PART** and **DENIED in PART**.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of

¹ Petitioner filed a Motion for an Extension of Time to file an objection to the Report and Recommendation, which was granted on March 4, 2025. ECF Nos. 34, 35. Petitioner's objections were due by March 14, 2025. That time has passed, and the Court has not received any objections from Petitioner.

the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability.² *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

IT IS SO ORDERED.

/s/
Arenda Wright Allen
United States District Judge

Norfolk, Virginia
Date: March 25, 2025

² Accordingly, Petitioner's Motion to Request Certificate of Appealability, ECF No. 36, is **DENIED**.